

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

November 12, 2014

Richard A Jensen
PO Box 750010
Torrey, UT 84775

RE: SEAA 2035

Dear Richard,

The enclosed State Engineer's Agency Action (SEAA) formalizes requirements for replacement of your measuring device. This cover letter summarizes and supplements that action. There are specific requirements as detailed in these documents concerning your diversion that must be accomplished.

I inspected your Parshall Flume measuring device on October 28, 2014, and determined the device is inadequate for continued use for proper measuring and distribution of flows. The sides of the flume are rusted out on both sides. Temporary fixes allowed by the water commissioner in 2014 are no longer adequate for measurement for the 2015 season. Specifically, plywood boards were used to replace rusted sidewalls, these were not effective at sealing the flow, and resultant leaks have eroded backfill along the sides of the flume. This device is no longer functioning as intended. Continued repairs of the existing device are deemed inadequate for future use. **The device must be replaced prior to diverting any water for the 2015 season.** If not replaced, you will not be allowed to divert water. Please review the attached SEAA notice for further requirements.

The Division is allowing till April 1, 2015 to have the required repairs accomplished. This is more than adequate & sufficient time to make the necessary and required repairs for replacement of a functioning measuring device. If these repairs are not accomplished, and conditions of the enclosed order are not completed, your diversion will not be allowed to divert water, starting April 1, 2015.

Please work with the water commissioners Randy Bradbury (435) 836-2135, to coordinate repairs and inspection when completed. If you have any questions, please contact me at (801) 538-7430 or at MikeSilva@utah.gov.

Sincerely,

Mike Silva
Distribution Engineer

cc: Southern Regional office /w Encl.
Randy Bradbury, Water Commissioner



BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>RICHARD A. JENSEN PO BOX 750010 TORREY, UT 84775</p> <p>RESPONDENT</p>	<p>CONTROL STRUCTURE AND MEASURING DEVICE NOTICE</p> <p>SEAA No. 2035 DISTRIBUTION ACCOUNT: 100752</p> <p>WATER RIGHTS: 95-4679, 95-4743, a16003</p>
--	---

I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

- (1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, except as provided by Subsection (4), shall construct or install and maintain controlling works and a measuring device at:*
- (a) each location where water is diverted from a source; and*
 - (b) any other location required by the state engineer.*
- (2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*
- (3) The state engineer shall approve the design of:*
- (a) the measuring device; and*
 - (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works.*
- (4) A person using water as an instream flow:*
- (a) shall install and maintain a measuring device or stream gauging station in the section of the stream within which the instream flow is maintained; and*
 - (b) is not required to install controlling works unless the state engineer's order approving the application requires the installation because controlling works are necessary to achieve the purpose of the application.*
- (6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*
- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
 - (b) commence enforcement proceedings authorized by Section 73-2-25.*

II. STATEMENT OF FACTS

1. The Respondent is the water user under the captioned distribution account and owner of the captioned water rights. Water under said rights is distributed to the Respondent through a headgate diversion on the Fremont River at a point along the Garkane Canal.
2. Distribution Commissioner A. Randy Bradbury has affirmed that the headgates at the corresponding diversions are adequate and compatible with adequate locking devices.
3. In addition, Commissioner Bradbury reports the measuring device below the headgate rusted out and leaks, resulting in improper/inaccurate measurement. Division staff also inspected said device, determined it to be inadequate, this device must be replaced to properly function. Continued repairs are not allowed on the existing device.
4. In order for the Commissioner to properly administer the delivery of water to the Respondent, the condition of the Respondent's facilities require corrective action.

III. ACTIONS REQUIRED

1. The Respondent is hereby notified that the Respondent's facilities must be repaired or replaced in a manner that will provide the Commissioner ability to adequately and accurately measure and the diversion of water at each turn out being utilized.
2. The Respondent's facilities are to be perpetually maintained in good working order as described above.
3. Prior to commencing the required work and during the construction and repairs, the Respondent shall consult with the Commissioner to assure that the planned improvements will satisfy the requirements of this Notice.
4. The required work must be completed and the Commissioner notified of said completion within prior to the start of irrigation season 2015, being no later than April 1, 2015.

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division will issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).

CERTIFICATE OF MAILING

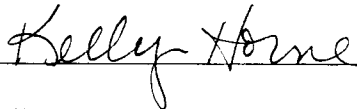
I, the undersigned, certify that on this 12th day of November 2014, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

Richard A Jensen
PO Box 750010
Torrey, UT 84775

USPS TRACKING #
& CUSTOMER
RECEIPT

9114 9011 2308 6069 1224 38

For Tracking or inquiries go to USPS.com
or call 1-800-222-1811.

_____

Kelly Horne
Division of Water Rights
Field Services Secretary